

IN THE UNITED STATES COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

CASE# 3:14-CV 226

Judge:Walter Rice

WARREN EASTERLING

Plaintiff

PLAINTIFF'S: MOTION FOR RECUSAL

Vs.

DALE CRAWFORD, JUDGE

Defendant

Now comes the Defendant , Warren Easterling, with his motion for recusal of Judge Rice due to his inability to preside over any proceedings in regards to the instant case. The basis for this motion will be discussed in the memorandum to follow .

MEMORANDUM

Judge Rice authored a court order which is the subject of case 3:14-po-00049-slo where the purpose was to obstruct justice in regards to all pending cases involving the Plaintiff where the court order is fraudulent and the appearance and the existence of bias and prejudice warrants the recusal of Judge Rice on all cases involving the Plaintiff. Please see the attached fraudulent court order authored by Judge Rice.

Federal law requires the automatic disqualification of a Federal judge under certain circumstances. In 1994, the U.S. Supreme Court held that "Disqualification is required if an objective observer would entertain reasonable questions about the judge's impartiality. If a judge's attitude or state of mind leads a detached observer to conclude that a fair and impartial hearing is unlikely, the judge must be disqualified." [Emphasis added]. *Liteky v. U.S.*, 114 S.Ct. 1147, 1162 (1994). Courts have repeatedly held that positive proof of the partiality of a judge is not a requirement, only the appearance of partiality. *Liljeberg v. Health Services Acquisition Corp.*, 486 U.S. 847, 108 S.Ct. 2194 (1988) (what matters is not the reality of bias or prejudice but its appearance); *United States v. Balistreri*, 779 F.2d 1191 (7th Cir. 1985) (Section 455(a) "is directed against the appearance of partiality, whether or not the judge is actually biased.") ("Section 455(a) of the Judicial Code, 28 U.S.C. §455(a), is not intended to protect litigants from actual bias in their judge but rather to promote public confidence in the impartiality of the judicial

<file:///C:/Users/Jeff/Internet>

That Court also stated that Section 455(a) "requires a judge to recuse himself in any proceeding in which her impartiality might reasonably be questioned." *Taylor v. O'Grady*, 888 F.2d 1189 (7th Cir. 1989). In *Pfizer Inc. v. Lord*, 456 F.2d 532 (8th Cir. 1972), the Court stated that "It is important that the litigant not only actually receive justice, but that he believes that he has received justice."

The Supreme Court has ruled and has reaffirmed the principle that "justice must satisfy the appearance of justice", *Levine v. United States*, 362 U.S. 610, 80 S.Ct. 1038 (1960), citing *Offutt v. United States*, 348 U.S. 11, 14, 75 S.Ct. 11, 13

(1954). A judge receiving a bribe from an interested party over which he is presiding, does not give the appearance of justice.

"Recusal under Section 455 is self-executing; a party need not file affidavits in support of recusal and the judge is obligated to recuse herself sua sponte under the stated circumstances.

" Taylor v. O'Grady, 888 F.2d 1189 (7th Cir. 1989).

Further, the judge has a legal duty to disqualify himself even if there is no motion asking for his disqualification. The Seventh Circuit Court of Appeals further stated that "We think that this language [455(a)] imposes a duty on the judge to act sua sponte, even if no motion or affidavit is filed." Balistreri, at 1202.

Judges do not have discretion not to disqualify themselves. By law Judges do not have discretion not to disqualify themselves. By law, they are bound to follow the law. Should a judge not disqualify himself as required by law, then the judge has given another example of his "appearance of partiality" which, possibly, further disqualifies the judge. Should another judge not accept the disqualification of the judge, then the second judge has evidenced an "appearance of partiality" and has possibly disqualified himself/herself. None of the orders issued by any judge who has been disqualified by law would appear to be valid. It would appear that they are void as a matter of law, and are of no legal force or effect.

Should a judge not disqualify himself, then the judge is violation of the Due Process Clause of the U.S. Constitution. United States v. Sciuto, 521 F.2d 842, 845 (7th Cir. 1996) ("The right to a tribunal free from bias or prejudice is based, not on section 144, but on the Due Process Clause.").

Should a judge issue any order after he has been disqualified by law, and if the party has been denied of any of his / her property, then the judge may have been engaged in the Federal Crime of "interference with interstate commerce".

The judge has acted in the judge's personal capacity and not in the judge's judicial capacity. It has been said that this judge, acting in this manner, has no more lawful authority than someone's next-door neighbor (provided that he is not a judge). However some judges may not follow the law.

If you were a non-represented litigant, and should the court not follow the law as to nonrepresented litigants, then the judge has expressed an "appearance of partiality" and, under the law, it would seem that he/she has disqualified judges follow the law, it is possible that a judge may not know the ruling of the U.S.

Supreme Court and the other courts on this subject. Notice that it states "disqualification is required" and that a judge "must be disqualified" under certain circumstances.

The Supreme Court has also held that if a judge wars against the Constitution, or if he acts without jurisdiction, he has engaged in treason to the Constitution.

If a judge acts after he has been automatically disqualified by law, then he is acting without jurisdiction, and that suggest that he is then engaging in criminal acts of treason, and may be engaged in extortion and the interference with interstate commerce.

Courts have repeatedly ruled that judges have no immunity for their criminal acts. Since both treason and the interference with interstate commerce are criminal acts, no judge has immunity to engage in such acts.
him/herself.

3. The Defendant fully intends to file a counterclaim of which Attorney Mullins has delayed filing for no valid reason. The Counterclaim is against Walter Rice and is related to actions by Magistrates Ovington and Merz.

IN the interest of justice, the Defendant respectfully asks Judge Rice to Recuse Himself.

Truly,



Warren Easterling

Defendant/ Attorney Pro se

71 Arlington Ave.

Dayton, Ohio 45417

937.263.1913

likesprettyfeet@yahoo.com

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

IN RE: WARREN EASTERLING
LITIGATION,

: Case No. 3:14mc11
:
: JUDGE WALTER H. RICE

RECEIVED
U.S. MARSHAL
SOUTHERN DIST. OF OHIO
14 AUG - 1 PM 2:59

ENTRY BARRING WARREN EASTERLING FROM UNITED STATES
DISTRICT COURT BUILDING AND OFFICE COMPLEX LOCATED AT 200
WEST SECOND STREET, DAYTON, OHIO; DIRECTIVE TO UNITED
STATES MARSHALS SERVICE, FEDERAL PROTECTIVE OFFICERS AND
COURT SECURITY OFFICERS; ALTERNATIVE MEANS OF ACCESS TO
FEDERAL COURT SUGGESTED

Warren Easterling has filed numerous cases with this Court, against public officials state and federal, too numerous to mention, almost all of which have been accompanied by an *in forma pauperis* affidavit. Many of those cases have been dismissed, for a multiplicity of reasons, not the least of which are *res judicata* and the Rooker-Feldman Doctrine. As to those cases still pending, which are in a posture for resolution, same will be dismissed, based upon reasoning to be set forth in a filing within the next seven to ten days. In that filing, Warren Easterling will be declared to be a vexatious litigator and ordered not to file any further litigation, on an *in forma pauperis* basis, without the written permission of the Chief Judge of the United States District Court for the Southern District of Ohio. A violation of said order will result in monetary sanctions which must be paid, prior to any future filings, whether *in forma pauperis* or by means of payment of the full filing fee.

Due to Warren Easterling's penchant to phone, in repeated fashion, the office of United

States Magistrate Judge Michael Merz to express his growing frustration with the legal system and, further, to visit the office of the Clerk of Courts, again on a repeated basis, to voice similar and growing frustration, the United States Marshals Service directed the Court Security Officers, stationed at the entrance to the United States District Courthouse and Office Complex, to escort Mr. Easterling on every occasion on which he entered the building, to each and every office with which he desired to interact or to contact. Matters escalated on Wednesday, July 30, 2014, when Mr. Easterling engaged in a belligerent, verbal altercation with several Court Security Officers which, according to reports, came very close to a physical altercation and the detention of Mr. Easterling until he could be arrested by the United States Marshals Service and/or the Federal Protective Officer on duty. In short, in the opinion of those who have interacted with him, his conduct has become more and more disruptive over the past several weeks.

WHEREFORE, it is the Order of this Court that Warren Easterling is BARRED from entering the United States District Courthouse and Office Complex, without the prior written permission of the Chief Judge of the United States District Court for the Southern District of Ohio. Should he attempt to enter those premises, without said written permission, he is to be immediately detained and arrested, by those with the authority to detain and arrest, and prosecuted for criminal trespass. Should Warren Easterling wish to file any papers with this Court, on matters upon which he has paid the full filing fee, since he is barred from entering the building in which the Clerk of Court's Office is located, he has two choices, to wit: to utilize the electronic filing medium or to access the Courts through the United States Postal Service.

This Entry shall remain in full force and effect until specifically countermanded by the

Chief Judge of the United States District Court for the Southern District of Ohio or the undersigned.

It is the further order of this Court that the United States Marshals Service personally serve this Entry on Warren Easterling as quickly as may be practicable.

August 1, 2014



WALTER H. RICE
UNITED STATES DISTRICT JUDGE

Copies to:
Warren Easterling, *Pro Se*
U.S. Marshals Service
Josh Hillard
Federal Protective Service
Court Security Office
Clerk's Office
Judge Thomas M. Rose
Judge Timothy S. Black
Judge Sharon L. Ovington
Judge Michael J. Newman
Judge Michael R. Merz

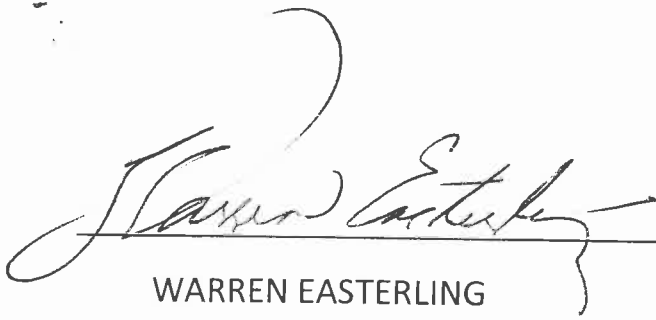
AFFIDAVIT OF DEFENDANT


Case# 3:14 -po-00049-SLO

After being duly cautioned and sworn, Defendant Warren Easterling, states the following:

1. I was never served a complaint from any plaintiff in regards to my rights to access the federal courts building at 200 W. Second St. Dayton, Ohio 45402.
2. I was never a party to any complaint where service of process or service of summons was waived in regards to my rights to enter the federal courts building in Dayton, Ohio.
3. I was never notified of any Plaintiff's filing for injunctive relief in regards to my rights to enter the federal courts building in Dayton, Ohio at will.
4. There has been no court proceeding in regards to my rights to free access to the courts building from which any court order or the alleged court order (exhibit #1) could be derived.

BEFORE ME APPEARED WARREN EASTERLING ON THIS 22nd DAY OF SEPTEMBER, 2014 WHO SWEARS TO THE TRUTH OF THE STATEMENTS ABOVE.


WARREN EASTERLING


NOTARY



CERTIFICATE OF SERVICE

I , WARREN EASTERLING, CERTIFY THE FOLLOWING DOCUMENTS WERE MAILED VIA ORDINARY MAIL on OCTOBER 10, 2014 to THE OFFICE OF Habash and Reasoner , ATTN. Tracy Turner 471 E. Broad St. , Suite 1520, Columbus , Ohio 43215

- PLAINTIFF'S RESPONSE TO AND MOTION TO OVERRULE THE DEFENDANT'S MOTION TO DISMISS
- PLAINTIFF'S MOTION FOR RECUSAL
- PLAINTIFF'S NOTICE OF A FEDERAL QUESTION , Rule 5.1

Truly,



Warren Easterling

Plaintiff/ Attorney Pro se

71 Arlington Ave.

Dayton, Ohio 45417

937.263.1913

likesprettyfeet@yahoo.com